UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,825	08/20/2001	Anthony A. Shah-Nazaroff	42390.P6488C	7188

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EXAMINER
RAMAN, USHA

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _10-6-08_.
2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _31-64_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _31-64_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth

in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

October 6th, 2008 has been entered.

Response to Arguments

2. Applicant's arguments with respect to the independent claims have been considered

but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form

the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2)
> of such treaty in the English language.

4. Claims 49, 51, 54-57 are rejected under 35 U.S.C. 102(e) as being anticiapted by

Herz (US Pat. 5,758,257).

With regards to claims 49 and 54, Herz discloses the method of

Sending a form of identification from a viewer at an entertainment system to a

programming guide server (see column 42 lines 61-63, column 43 lines 7-15,

column 50 lines 19-21);

Receiving a access to a viewer characteristic file for the viewer and provided

from a different entertainment system (see column 49 lines 23-30), the viewer

characteristic file identifying the viewer (column 26 lines 34-37) and including viewer

preferences and demographic information about the viewer (see column 48 lines 5-

10).

Claim 54 additionally recites a "a machine readable medium having stored

thereon data representing sequences of instructions" causing the machine to

perform the above method. This is met by software stored on set top terminal (see

column 46 lines 19-23 and lines 62-67) controller controlling the data collection

instructions.

With regards to claim 51, wherein the list is ranked based on the viewer

characteristic file (ranking is based on agreement scalar, which is based on viewer

profile preferences, see column 45 lines 41-43 and column 19 lines 64-65).

With regards to claim 55, the viewer characteristic files includes information

gathered from the viewer (see column 12 lines 3-6).

With regards to claim 56, the viewer characteristic file includes viewing habits

of the viewer (see column 48 lines 15-22).

With regards to claim 57, the viewer characteristic file includes channel preferences

of the viewer (see column 45 lines 34-40).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 31-48,50, 52-53, 58-64 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Herz et al. (US Pat. 5,758,257) in view of Herz (US Pat.

6,029,195).

With regards to claims 31, and 45 Herz discloses a method comprising:

Receiving a viewer characteristic file (customer profile) at a programming

guide server (head end) from a viewer's entertainment system (see column 42

lines 61-63, column 43 lines 7-15), the viewer characteristic file identifying a

viewer (column 26 lines 34-37, column 50 lines 19-21) and including viewer

preferences and demographic information about the viewer (see column 48 lines

5-10); and

Herz further discloses the step of providing access to the viewer

characteristic file for viewing or manually modifying profile (column 45 lines 50-

55). Herz further discloses the step of providing access to the viewer

characteristic at a different entertainment system (see column 49 lines 23-30).

However Herz is silent on the step of providing such access remotely from the

programming guide server at a different entertainment system.

In a related art, Herz ('195) discloses a method of allowing a user U access to another user V's profile so that the user U can "masquerade" as user V and receive customizations according to the V's profile by temporarily substituting U's profile for V's profile.

It would have obvious to modify the system in view of Herz's teachings by allowing proxy server to substitute user's profile (from a first terminal) for another user's profile (from a second terminal) so that the user at a first terminal can receive customization intended for the second user. Once a substitution is made of the profiles, the modified system can allow the user to view the substituted profile that is currently active as disclosed by Herz '257 (see column 45 lines 50-55). The modified system therefore provides access to the viewer characteristic file remotely from the programming guide server at a different entertainment system.

Claim 45 additionally recites a "a machine readable medium having stored thereon data representing sequences of instructions" causing the machine to perform the above method. This is met by Herz's system controller controlling the data collection instructions (column 43, lines 2-10).

With regards to claim 32, the viewer characteristic files includes information gathered from the viewer (see column 12 lines 3-6).

With regards to claims 33, 41 and 46, the viewer characteristic file includes viewing habits of the viewer (see column 48 lines 15-22).

With regards to claim 34, the viewer characteristic file includes channel preferences of the viewer (see column 45 lines 34-40).

With regards to claim 35, Herz further discloses that the system can be used to provide customized data from the Internet (see column 51 lines 2-7. Herz additionally discloses that the viewer profile is reflective of user's history. While Herz is silent on providing Internet web site types in the viewer profile, it would have been obvious to modify the system to include such data to effect the recommending of Internet data based on user's browsing history.

With regards to claims 36 and 37, the modified system receives a list of the viewer's (user V) favorite broadcast to the different entertainment system (user U). It is noted that programs are recommended in conformance with user V's preferences and therefore are indicative of information about user V and includes ratings provided by the user (see column 12 lines 3-6).

With regards to claim 38, the modified system includes feedback from the viewer (see column 4 lines 15-22).

With regards to claim 39, the modified system further includes answer to questions about the broadcast (active feedback, column 33 lines 59-64, column 14 lines 22-25).

With regards to claim 40, Herz discloses one of the methods of providing feedback from the viewer is by allowing them to agree or disagree with the assigned content profile ratings. See column 14 lines 25-32. While Herz does not disclose synopsis on the questionnaire, examiner takes official notice that

synopsis can be part of content profile wherein it characterizes the content, and it would have been obvious to allow the user to state their opinion on the synopsis of the content.

With regards to claim 41, the viewer characteristic file includes viewing habits of the viewer (see column 48 lines 15-22).

With regards to claim 42, once a substitution is made of the profiles, the modified system can allow the user to view the substituted profile that is currently active as disclosed by Herz '257 (see column 45 lines 50-55). The modified system therefore provides access to the first viewer characteristic file remotely from the programming guide server at a different entertainment system by providing a form of identification of the first user.

With regards to claim 43, Herz further discloses the receiver receiving list of recommended programs and displaying them to the user. See column 45 lines 34-43. It is noted that programs are recommended in conformance with user's preferences and therefore are indicative of user's favorites.

With regards to claim 44, the list is ranked before it is provided to the user (see column 19 lines 64-65).

With regards to claim 47, once a substitution is made of the profiles, the modified system can allow the user to view the substituted profile that is currently active as disclosed by Herz '257 (see column 45 lines 50-55). The modified system therefore provides access to the first viewer characteristic file remotely

from the programming guide server at a different entertainment system by providing a form of identification of the first user.

With regards to claim 48, wherein the list is ranked based on the viewer characteristic file (ranking is based on agreement scalar, which is based on viewer profile preferences, see column 45 lines 41-43 and column 19 lines 64-65).

With regards to claims 50 and 52, Herz discloses the receiver receiving list of recommended programs and displaying them to the user. See column 45 lines 34-43. Herz is silent on the step of providing such access remotely from the programming guide server at a different entertainment system.

In a related art, Herz ('195) discloses a method of allowing a user U access to another user V's profile so that the user U can "masquerade" as user V and receive customizations according to the V's profile by temporarily substituting U's profile for V's profile.

It would have obvious to modify the system in view of Herz's teachings by allowing proxy server to substitute user's profile (from a first terminal) for another user's profile (from a second terminal) so that the user at a first terminal can receive customization intended for the second user. Once a substitution is made of the profiles, the modified system can allow the user to view the substituted profile that is currently active as disclosed by Herz '257 (see column 45 lines 50-55). Herz '195 further discloses that upon masquerading as another user, programs are recommended in conformance with the other user's profile.

Therefore the modified system receives a list of the viewer's (user V) favorite broadcast to the different entertainment system (user U). It is noted that programs are recommended in conformance with user's preferences and therefore are indicative of user's.

With further regards to claim 52, viewer profile (user V) is available at user U's entertainment system in the modified system. The viewer profile for user V comprises ratings provided by the viewer V at the different entertainment system of broadcasts.

With regards to claim 53, Herz discloses that the ratings based on processing generating ratings of broadcasts (agreement scalar), based at least in part on received viewer feedback (column 14 lines 1-3 and 15 lines 51-55) to the broadcasts.

With regards to claim 58 and 62, Herz discloses an entertainment server system comprising:

A communication interface (data collection) to receive viewer characteristic files (see column 42 lines 61-63, column 43 lines 7-15) from a plurality of different entertainment systems about a plurality of different viewers (see column 41 lines 32-36) the viewer characteristic file identifying a viewer (column 50 lines 19-21) and including viewer preferences and demographic information about the viewer (see column 48 lines 5-10) and to receive a form of identification from a plurality of different viewers (see column 42 lines 61-63, column 43 lines 7-15, column 50 lines 19-21);

Herz is silent on the step of providing a form of identification from a viewer
at a first entertainment system and to provide through the communications
interface access providing such access to a viewer characteristic file from a
second entertainment system.

In a related art, Herz ('195) discloses a method of allowing a user U
access to another user V's profile so that the user U can "masquerade" as user V
and receive customizations according to the V's profile by temporarily
substituting U's profile for V's profile. The substitution can be made when user
specific data regarding user V is provided by user U (see column 74 lines 55-58).

It would have obvious to modify the system in view of Herz's teachings by
allowing proxy server to substitute user's profile (from a first terminal) for another
user's profile (from a second terminal) so that the user at a first terminal can
receive customization intended for the second user. Once a substitution is made
of the profiles, the modified system can allow the user to view the substituted
profile that is currently active as disclosed by Herz '257 (see column 45 lines 50-
55). The modified system therefore provides access to the first viewer
characteristic file remotely from the programming guide server at a different
entertainment system by providing a form of identification of the first user.

With regards to claim 59, Herz further discloses wherein the processor
further provides through the communications interface a programming guide that
includes ratings based on the viewer characteristic file to which access was

provided at the first entertainment system. See column 45 lines 41-43 and

column 19 lines 64-65.

With regards to claim 60, Herz discloses that the programming guide

includes a ranked list of broadcasts based on the viewer characteristic file. See

column 45 lines 41-43 and column 19 lines 64-65.

With regards to claim 61, Herz discloses that the broadcasts are ranked

based on processing generating ratings of broadcasts (agreement scalar), based

at least in part on received viewer feedback (column 14 lines 1-3 and 15 lines 51-

55) to the broadcasts, the rating indicating a likelihood of interest in a first

broadcast for potential subsequent viewer (see column 38 lines 19-41), the

processor further assembling a list of available broadcast for viewers and ranking

the available based on received viewer characteristic files. See column 45 lines

41-43 and column 19 lines 64-65.

With regards to claim 63, Herz further discloses the receiver receiving list

of recommended programs and displaying them to the user. See column 45

lines 34-43. It is noted that programs are recommended in conformance with

user's preferences and therefore are indicative of user's favorites.

With regards to claim 64, the communications network comprises a cable

television network (see fig. 6).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to USHA RAMAN whose telephone number is

(571)272-7380. The examiner can normally be reached on Tue-Fri: 8am-6:30pm.

     If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The

fax phone number for the organization where this application or proceeding is

assigned is 571-273-8300.

     Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR

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assistance from a USPTO Customer Service Representative or access to the

automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-

272-1000.

/Chris Kelley/
Supervisory Patent Examiner, Art
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/Usha Raman/